

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re: HENRY L. WILTON

Case No. 10-36398-KRH
Chapter 11

Debtor.

RESPONSE TO MOTION TO COMPEL DEBTOR'S COMPLIANCE WITH COURT ORDER

Comes now the Defendant, Henry L. Wilton, by counsel, and states as follows for his response to the Motion of John and Diane Chachas to compel his compliance with the Court Order in regards to the sale of 3170 Thistle Street, Deer Valley, Utah:

1. The allegations of Paragraph one are admitted.
2. The allegations in paragraph two are admitted.
3. The allegations contained in Paragraph three are admitted as to the existence of the contract. The remaining allegations of paragraph three are denied.
4. The allegations contained in Paragraph four are admitted.
5. The allegations contained in Paragraph five are admitted.
6. In response to the allegations contained in Paragraph six, Wilton, through counsel was advised that the Buyers still wanted to purchase the real estate, their financing was about to expire, and that an issue with the roof needed to be addressed.
7. The allegations contained in Paragraph seven and eight are denied. The Debtor is not preparing any HUD statements in regards to this closing. The Debtor had received a proposed HUD statement that was attached to the Motion to Sell. Debtor learned that the underwriting title company had concerns about the Court Order that were ultimately resolved. The Debtor was advised, by email, that the title company had agreed for the closing to go forward on November 15, 2010.

8. The allegations contained in Paragraph 9 are denied. The Debtor was advised that Wells Fargo Home Mortgage still had not produced a pay-off statement which had been previously requested in writing.

9. The allegations contained in Paragraph 10 are denied. At the hearing on the Motion to Sell it was represented that there would be no funds for the second lien holder on the real estate, Wachovia Bank, was aware of this and in agreement with the sale.

10. The allegations contained in Paragraph 11 are admitted. This allegation was based upon Wilton's conversations with his agent about the necessity to reduce commissions if the sale would go forward.

11. The allegations contained in Paragraph 12 are admitted and are based on the proposed HUD statement that Wilton received.

12. In response to the allegations contained in Paragraph 13, this email is in direct conflict with the conversations that Tracy had with Wilton and Wilton's counsel.

13. The allegations contained in Paragraph 14 are admitted.

14. The allegations contained in Paragraph 15 are denied.

15. The allegations contained in Paragraph 16 are denied. The Debtor contacted Wells Fargo Home Mortgage and after a rather lengthy communication, received the payoff statement on November 18, 2010. The payoff statement was then transmitted to the title company.

16. The allegations contained in Paragraph 17 are admitted as to when the payoff statement was requested. Since the payoff statement has now been received, the balance of the allegations are denied.

17. The allegations contained in Paragraph 18 are admitted.
18. The allegations contained in Paragraph 19 are denied.

WHEREFORE, the Debtor, Henry L. Wilton, asks this Court to deny the Motion of John and Diane Chachas as the payoff statement has already been obtained and the Debtor has taken every action he can take to cause this closing to occur.

HENRY L. WILTON

By: /s/ Robert A. Canfield
Counsel

Robert A. Canfield, #16901
Canfield Baer & Heller, LLP
2201 Libbie Avenue, Suite 200
Richmond, VA 23230
☎ (804)673-6600
📠 (804)673-6604
Counsel for Henry L. Wilton, Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was mailed, first class postage prepaid and/or electronically transmitted, on this 22nd day of November, 2010, to the following:

Troy Savenko, Esquire
GREGORY KAPLAN, PLC
7 East Second Street
Post Office Box 2470
Richmond, VA 23218
Counsel for John and Diane Chachas, Movants

/s/ Robert A. Canfield
Robert A. Canfield

Robert A. Canfield (VSB # 16901)
Canfield Baer & Heller, L.L.P.
2201 Libbie Avenue, Suite 200
Richmond, VA 23230
☎ (804) 673-6600
📠 (804) 673-6604